

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

BILLY BRANTLEY, et al.,
Plaintiffs,

v.

CINERGY CORP.,
Defendant.

CASE NO. C-1-01-378

JUDGE SUSAN J. DLOTT

**DEFENDANT'S SUPPLEMENTATION
OF AUTHORITY**

Defendant Cinergy Corp. hereby supplements the authorities pertaining to its Motions for Summary Judgment, initially filed with the Court on July 28, 2004, with the following cases decided after its motions were filed.

1. Browning v. Department of the Army, Case No. 04-5219, 2006 U.S. App. LEXIS 1167 (6th Cir. Jan. 19, 2006) (copy attached hereto). The decision in Browning relates to the burden of proof in failure to promote cases and the employer's ability to use subjective selection criteria.

2. Cooper v. Southern Company, 390 F.3d 695 (11th Cir. 2004). The decision in Cooper relates to the burden of proof in failure to promote cases.

3. Hedrick v. Western Reserve Care System, 355 F.3d 444 (6th Cir. 2004). The opinion in Hedrick discusses to the degree to which a plaintiff may challenge the employer's business judgment in a discrimination case.

4. Leadbetter v. Gilley, 385 F.3d 683 (6th Cir. 2004). The decision in Leadbetter is pertinent with respect to the degree to which the plaintiff and the alleged comparable must be similarly situated in a discrimination action.

5. Minadeo v. ICI Paints, 398 F.3d 751 (6th Cir. 2005). This decision relates to the degree to which the plaintiff and the alleged comparable must be similarly situated.

6. Osaze v. City of Strongsville, Case No. 86474, 2006-Ohio-1089 (8th Dist., Ohio Ct. App., Mar. 9, 2006) (copy attached hereto). The Osaze opinion discusses the standards for a claim of racial harassment.

7. Reid v. Cinergy Corp., Case No. 1:02CV586 (S.D. Ohio Jan. 20, 2006) (copy attached hereto). This Court in the Reid case granted summary judgment in favor of defendant in an action containing the same general types of claims as those asserted in this action.

8. Smith v. Service Employees International Union, Local 79, 2005 U.S. App. LEXIS 645 (6th Cir. Jan. 12, 2005) (copy attached hereto). The Smith opinion relates to the burden of proof in failure to promote cases.

9. White v. Columbus Metropolitan Housing Authority, 429 F.3d 232 (6th Cir. 2005). The opinion in White relates to the plaintiff's prima facie case in a failure to promote case.

10. Williams v. Columbus Metropolitan Housing Authority, 90 Fed. Appx. 870 (6th Cir. 2004). The decision in Williams relates to the burden of proof in failure to promote cases.

Respectfully submitted,

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Trial Attorneys for Defendant

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served this 13th day of March, 2006 by the court's electronic filing system.

/s/ Gregory V. Mersol
One of the Attorneys for Defendant

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